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5 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 JOHN THOMAS BLACK,
8 Plaintiff,

9 v.

10 DOUG WADDINGTON *et al.*,
11 Defendants.

Case No. C08-5643 FDB

ORDER ADOPTING REPORT AND
RECOMMENDATION DISMISSING
ACTION FOR FAILURE TO STATE A
CLAIM

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13 The Magistrate Judge recommends that this civil rights claim be dismissed for failure to
14 state a claim. As detailed by the Magistrate Judge, Plaintiff seeks damages for allegedly being held
15 in custody beyond his release date. A challenge that necessarily implies the validity of continued
16 confinement must be brought as a petition for habeas corpus.

17 The Court, having reviewed Plaintiffs' complaint, the Report and Recommendation of
18 Magistrate Judge J. Kelley Arnold, objections to the Report and Recommendation, if any, and the
19 remaining record, does hereby find and ORDER:

- 20 (1) The Court adopts the Report and Recommendation;
21 (2) This action is **DISMISSED WITHOUT PREJUDICE**.
22 (3) The Clerk is directed to send copies of this Order to plaintiff, and to the Hon. J.
23 Kelley Arnold.

24 DATED this 30th day of April, 2009.

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27 FRANKLIN D. BURGESS
28 UNITED STATES DISTRICT JUDGE